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COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

TRACI C., Appellant, v. ARIZONA DEPARTMENT OF ECONOMIC SECURITY, KRISTIAN C., and KURT G., Appellees.	2 CA-JV 2007-0099 DEPARTMENT B MEMORANDUM DECISION Not for Publication Rule 28, Rules of Civil Appellate Procedure

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. 17863900

Honorable Stephen M. Rubin, Judge Pro Tempore

AFFIRMED

Jacqueline Rohr
Tucson
Attorney for Appellant

Terry Goddard, Arizona Attorney General
By William V. Hornung
Tucson
Attorneys for Appellee Arizona
Department of Economic Security

E C K E R S T R O M, Presiding Judge.

¶1 Traci C. appeals from the juvenile court's November 2007 order terminating her parental rights to her sons, Kurt G., born in December 2001, and Kristian C., born in April 2003, on grounds she had neglected or abused the children, *see* A.R.S. § 8-533(B)(2), and had refused, neglected, or been unable to remedy the circumstances that caused them to be in a court-ordered, out-of-home placement, *see* § 8-533(B)(8)(a) and (b). Traci contends there was insufficient evidence to support the court's finding of abuse or neglect or its implicit finding, required to terminate parental rights pursuant to § 8-533(B)(8)(a) or (b), that the Arizona Department of Economic Security (ADES) had made diligent efforts to provide her with appropriate reunification services. She also challenges the court's finding that termination of her parental rights is in the children's best interests. We affirm.

¶2 "We will not disturb the juvenile court's order severing parental rights unless its factual findings are clearly erroneous, that is, unless there is no reasonable evidence to support them," *Audra T. v. Ariz. Dep't of Econ. Sec.*, 194 Ariz. 376, ¶ 2, 982 P.2d 1290, 1291 (App. 1998), and we view the evidence in the light most favorable to affirming those findings. *Vanessa H. v. Ariz. Dep't of Econ. Sec.*, 215 Ariz. 252, ¶ 20, 159 P.3d 562, 566 (App. 2007).

¶3 The juvenile court's ruling sets forth its extensive factual findings, the evidentiary basis for its findings, and its legal reasoning in a fashion that has permitted this court and will allow any court in the future to understand its conclusions. Therefore, we need not repeat that analysis here. *Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, ¶

16, 53 P.3d 203, 207-08 (App. 2002); *see also State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993). The court did not expressly find that ADES had "made a diligent effort to provide appropriate reunification services" as required by § 8-533(B)(8). But we will presume the court made every finding necessary to support the termination order, as long as the court's implicit finding is supported by reasonable evidence in the record. *Mary Lou C. v. Ariz. Dep't of Econ. Sec.*, 207 Ariz. 43, ¶ 17, 83 P.3d 43, 50 (App. 2004).

¶4 We find such reasonable evidence here. The juvenile court's termination order identified the services offered or provided to Traci during the dependency proceeding as "supervised visitation, random drug testing, a referral to Family Drug Court, substance abuse assessment and treatment, psychological evaluation, parenting classes, domestic violence classes, and case management services." In addition to those services, evidence was presented at the termination hearing that ADES had also offered Traci a mental health assessment, individual therapy, group therapy, one-to-one parenting instruction, case-aide support and services, and the support of a Child and Family Team.

¶5 Similarly, the juvenile court's finding that Traci had nonetheless failed to remedy the causes of her children's out-of-home placement is amply supported by the record. Indeed, Traci does not dispute this finding. Instead, relying on *Mary Ellen C. v. Arizona Department of Economic Security*, 193 Ariz. 185, 971 P.2d 1046 (App. 1999), she argues that, because she failed to benefit from the services ADES had offered her, those

services were not "suited to [Traci]" or her needs and were therefore not "appropriate reunification services" for purposes of § 8-533(B)(8).

¶6 We cannot agree with Traci that *Mary Ellen C.* required ADES to provide her with more or different reunification services. In *Mary Ellen C.*, the court held that, to meet its statutory and constitutional obligations to reunify a mentally ill parent and her child, ADES "must provide [the] parent with the time and opportunity to participate in programs designed to improve the parent's ability to care for the child." 193 Ariz. 185, ¶¶ 32, 37, 971 P.2d 1046, 1052-53. The court reversed the termination of the mother's parental rights in that case because ADES had failed to provide any significant reunification services for over a year and then had "neglect[ed] to offer the very services that its consulting expert recommend[ed]." *Id*. ¶¶ 35, 37. In contrast, here, evidence at the termination hearing suggested it was Traci who had failed to promptly participate in services, and the reunification services ADES had offered included those recommended for Traci by Karen Paulsen-Balch, the clinical psychologist who had evaluated her in May 2007.

¶7 "[A]DES is not required to provide every conceivable service or ensure that a parent participates in each service it offers." *In re Maricopa County Juv. Action No. JS-501904*, 180 Ariz. 348, 353, 884 P.2d 234, 239 (App. 1994). Nor is it obligated to "undertake rehabilitative measures that are futile." *See Mary Ellen C.*, 193 Ariz. 185, ¶ 34, 971 P.2d at 1053. Substantial evidence in the record supports the trial court's implicit finding that ADES had made a diligent effort to provide Traci with appropriate reunification

services but, despite those services, she had been unable to remedy the circumstances that caused her sons to remain in an out-of-home placement for longer than fifteen months. *See* § 8-533(B)(8)(b).

¶8 Because we affirm the court's finding that terminating Traci's parental rights was warranted pursuant to § 8-533(B)(8)(b), we "need not consider whether the trial court's findings justified severance on the other grounds announced by the court." We therefore do not address Traci's challenge to the court's findings of abuse or neglect pursuant to § 8-533(B)(2) or nine-month, out-of-home placement pursuant to § 8-533(B)(8)(a). *See Michael J. v Ariz. Dep't of Econ. Sec.*, 196 Ariz. 246, ¶ 27, 995 P.2d 682, 687 (2000); *see also* § 8-533(B) (one statutory ground sufficient to justify termination).

¶9 Traci also argues the juvenile court lacked sufficient evidence to find that severing her parental rights was in her sons' best interests. She contends the court failed to properly weigh the importance of the children's relationship with her as their biological mother and that she had not been "afforded the amount or type of visitation to protect and enhance" that relationship.

¶10 To find that termination is in a child's best interests, a juvenile court must find either that the child will benefit from termination of the relationship or be harmed by continuation of the relationship. *In re Maricopa County Juv. Action No. JS-500274*, 167 Ariz. 1, 5, 804 P.2d 730, 734 (1990). As affirmative benefits from termination, the court may properly consider evidence that the child is adoptable, *see Maricopa County No.*

JS-501904, 180 Ariz. at 352, 884 P.2d at 238, and the existence of a current adoption plan, *see In re Maricopa County Juv. Action No. JS-6520*, 157 Ariz. 238, 243-44, 756 P.2d 335, 340-41 (App. 1988).

¶11 Evidence was presented at the termination hearing that Kurt and Kristian were placed in a therapeutic foster home that was safe, nurturing, and appropriate for their needs; that they were "very adoptable"; and that Child Protective Services had identified a family that wanted to provide a permanent home for the boys. Reasonable evidence thus supports the court's finding that termination would provide an affirmative benefit to Kurt and Kristian by freeing them for adoption and that severing Traci's rights was therefore in the children's best interests. We will not disturb that finding on appeal. *See Vanessa H.*, 215 Ariz. 252, ¶ 22, 159 P.3d at 567; *Audra T.*, 194 Ariz. 376, ¶ 2, 982 P.2d at 1291.

¶12 The record in this case fully supports the juvenile court's findings of fact and, in turn, its conclusions of law. We adopt the court's findings, including its implicit determination that ADES made a diligent effort to provide appropriate reunification services, and affirm the order terminating Traci's parental rights. *See Jesus M.*, 203 Ariz. 278, ¶ 16, 53 P.3d at 207-08.

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PETER J. ECKERSTROM, Presiding Judge

CONCURRING:

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PHILIP G. ESPINOSA, Judge

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GARYE L. VÁSQUEZ, Judge